

**CITY OF JOHNS CREEK**  
**COUNCIL MEETING MINUTES**  
**February 14, 2011 @ 7:00pm**

The City of Johns Creek Mayor and Council held a monthly meeting on Monday, February 14, 2011. The meeting was held at 7:00pm in the City Hall Council Chambers located at 12000 Findley Road, Suite 300 in Johns Creek, Georgia.

**COUNCIL PRESENT:** Post 1-Randall Johnson  
Post 2-Dan McCabe  
Post 3-Karen Richardson  
Post 4-Ivan Figueroa  
Post 5 Kelly Stewart  
Post 6-Bev Miller  
Mayor Mike Bodker

**STAFF PRESENT:** City Clerk Joan Jones  
City Manager, John Kachmar  
City Attorney Bill Riley

**PLEDGE OF ALLEGIANCE:** Led by Eagle Scouts Will Caplan of Troop 69 and Derrick Grunwald of Troop 629.

**OPENING REMARKS:** Mayor Bodker welcomed everyone to the meeting and thanked the sponsors and those who attended the State of the City Address. He invited those unable to attend to view the video on the city's website. The Mayor commended Police Chief Densmore and City Manager Kachmar for working with Fulton County schools to avert an incident at one of our local high schools. He remarked on the recent events such as the basketball match between Johns Creek and Alpharetta's Public Safety staff; the Johns Creek Police Department's "Night at Monte Carlo" held at St. Ives County Club to benefit the Special Olympics; and added, the Police department will also hold their 2<sup>nd</sup> Annual Polar Bear Plunge at Lake Lanier on February 19th, to also raise funds for the Special Olympics.

**MINUTES:** Council Member McCabe motioned, seconded by Council Member Richardson to approve the January 24, 2011 Work Session Summary and Council Minutes and the January 31<sup>st</sup> Work Session Summary as presented. There being no discussion, the motion passed unanimously.

**MEETING AGENDA APPROVED:** Council Member Figueroa motioned, seconded by Council Member Johnson to approve the meeting agenda as presented. There being no discussion, the motion passed unanimously.

City Clerk Jones read the Public Comment procedures. Mayor Bodker noted there were elected officials from Alpharetta requesting to comment on a specific agenda item and as a courtesy, he asked council if there were any objections to allowing the officials to comment on the item when it is raised for consideration. There were no objections.

**PUBLIC COMMENT:** Mark Endres addressed Council and spoke in opposition to proposed charter revisions, saying although the changes proposed may improve the City's bond rating, they may make it easier to raise taxes; David Kornbluh spoke on behalf of the JCCA and read a resolution adopted by the association formally opposing changes to the Charter, stating changes

should only be considered upon recommendation by the Charter Commission; Rob Latzsch, President of the Ocee Park Athletic Association spoke in opposition to adding non-resident fees saying it would reduce participation in athletic programs and the two-week priority registration for resident could shut out youth who are already participating on a team; Stephanie Endres spoke in opposition to the Charter changes saying this will lead to increased taxes; Major Thompson addressed Council saying the infrastructure needs repairs, he is not in favor of higher taxes, and the citizens should vote on how necessary improvements should be funded; Jim Cregge, the Parks and Recreation Commission Chairman of Alpharetta spoke in opposition to non-residents fees for residents of Alpharetta, saying he understood there was an unofficial agreement between the cites to treat residents the same and asked that players currently on teams be exempt from the two-week priority registration for residents and offered to work with the city to minimize impact of policy changes on youth athletics.

**CONSENT AGENDA:** Council Member McCabe motioned, seconded by Council Member Johnson, to approve the Consent Agenda, which included, ***ACTION ITEM—approve Privileged Resolutions for Eagle Scouts Will Caplan of Troop 69 and Derrick Grunwald of Troop 629 and ACTION ITEM—approve the Memorandum of Understanding with Forsyth County and the City of Johns Creek for Interoperability Talk Group and Back-up Radio System.*** There being no discussion, the motion carried unanimously and the Consent Agenda was approved.

**ANNOUNCEMENTS:** City Clerk Jones announced the following meetings:

- *Tuesday, 2/15/11 @7:00pm—BZA*
- *Monday, 2/21/11- City Offices Closed in observance of President's Day*
- *Monday, 2/28/11 @5:00pm—Work Session and 7:00pm-City Council Meeting*

**REPORTS & PRESENTATIONS:** Council Member Stewart presented the following Privileged Resolution recognizing Eagle Scout Will Caplan of Troop 69:

*The City of Johns Creek recognizes William Benjamin Caplan of Troop 69, on successfully meeting all the rank requirements for Eagle. Whereas Eagle Scout Caplan completed his Eagle Scout project by making 51 fleece blankets for foster children between the ages of 10 to 15; and Whereas this project will benefit Mount Pisgah's "Knots for Love" program and, this project included a fundraiser which raised over \$3000 to purchase materials. Whereas Eagle Scout Caplan's project took many hours to complete, it demonstrates his dedication and commitment to scouting and his community. The Mayor and Council of the City of Johns Creek recognize and applaud Eagle Scout William Benjamin Caplan and wish him well in all his future endeavors*

Council Member Johnson presented the following Privileged Resolution recognizing Eagle Scout Derrick Grunwald of Troop 629:

*The City of Johns Creek recognizes Derrick Grunwald of Troop 629 on obtaining the rank of Eagle Scout. Whereas Eagle Scout Grunwald completed his community service project by planning and leading the effort in the construction of containers and wildflower plantings along Sal's Creek in the Autrey Mill Nature Preserve and Heritage Center; and, Whereas this project took many hours to complete; it also enhances the aesthetics of the creek path while providing an educational opportunity for park visitors to learn more about Georgia's native plants and wildflowers. Whereas, Eagle Scout Grunwald's project provides yet another opportunity to demonstrate the benefits scouting brings to the overall quality of life for our citizens. The Mayor and Council of the City of Johns Creek hereby recognizes and applauds Eagle Scout Derrick Grunwald and wish him well in all his future endeavors.*

**OLD BUSINESS:** No Old Business.

**NEW BUSINESS:**

**LEASE ASSIGNMENT FOR CITY HALL:** As this item was previously discussed at the Work Session, Council had no additional questions. Council Member Johnson motioned, seconded by Council Member Richardson, to approve Resolution 2011-02-05 to approve the Assignment and Assumption of Lease for 12000 Findley Road (City Hall). There being no discussion, the motion passed unanimously. (*RESOLUTION 2011-02-05*)

**LEASE ASSIGNMENT FOR PUBLIC SAFETY BUILDING:** As this item was previously discussed at the Work Session, Council had no additional questions. Council Member Figueroa motioned, seconded by Council Member Johnson, to approve Resolution 2011-02-06 to approve the Assignment and Assumption of Lease for 11445 Johns Creek parkway (Public Safety Building). There being no discussion, the motion passed unanimously. (*RESOLUTION 2011-02-06*)

**AMEND FY 2011 BUDGET FOR CARRY OVER OF FY 2010 GENERAL AND PURCHASE FUNDS ENCUMBERANCE:** As this item was previously discussed at the Work Session, Council had no additional questions. Council Member Richardson motioned, seconded by Council Member Miller, to approve Ordinance 2011-02-02 to Amend the FY 2011 Budget for the Encumbrance Carry-over from Fiscal Year 2010 Budget for the General Fund and Lease Purchase Fund. There being no discussion, the motion carried unanimously. (*ORDINANCE 2011-02-02*)

**AMEND AND ADOPT FY 2010 BUDGET FOR THE GENERAL FUND AND GRANT FUND:** As this item was previously discussed at the Work Session, Council had no additional questions. Council Member Miller motioned, seconded by Council Member Stewart, to approve Ordinance 2011-02-03 to Amend and Adopt FY 2010 Budget for the General Fund of the City of Johns Creek, Appropriating the Expenditures and Adopting the Revised Anticipated Revenues. There being no discussion, the motion carried unanimously. (*ORDINANCE 2011-02-03*)

**RESOLUTION CALLING FOR THE 2011 ELECTIONS AND SET QUALIFYING FEES:** City Clerk Jones informed Council the city is required to call for the election and fix and publish qualifying fees for the General Municipal Election. Council Member Figueroa motioned, seconded by Council Member Richardson to approve Resolution 2011-02-07 calling for the 2011 Election and to Fix and Publish the Qualifying Fees for the General Election for the City of Johns Creek Offices for Council Members Post 2, Post 4, and Post 6. There being no discussion, the motion passed unanimously. (*RESOLUTION 2011-02-07*)

**RECREATION AND PARKS NON-RESIDENT FEE POLICY:** Recreation Manager Kirk Franz provided a power point presentation summarizing the various recommendations for adopting a non-resident fee policy to fund increased maintenance costs, highlighting the Staff's, RPAC's and the Master Plan's recommendations and summarized Council recommendations from the January 31<sup>st</sup> Work Session discussion.

Alpharetta Mayor Letchas commented that prior to the incorporation of Johns Creek a verbal agreement with Mike Bodker was made that Alpharetta residents would have the same rights to Ocee Park as Johns Creek residents. He asked this agreement be honored and not to charge Alpharetta residents the Non-Resident Fee to use Ocee Park programs.

Both Council Member Aiken and DeRito addressed their concerns, noting Alpharetta does charge a non-resident fee but this is necessary to offset costs for a bond secured for park improvements. Mr. Aiken reminded council that during the time of Johns Creek incorporation, Alpharetta opposed having Ocee park included in the Johns Creek city limits because the park is surrounded by Alpharetta residents but acquiesced as it was the right thing to do at the time. Mr. DeRito commented on the verbal agreement, asked council to table this item for further discussion and to review other possibilities. Council Member Kennedy, also present, said he supported the comments of his fellow Council Members.

During council discussion, Council Member Figueroa inquired about funds spent on parks to date, approximately \$4M, including capital investment; Council Member McCabe commented on the statements regarding the agreement between Mayor Bodker and Mayor Letchas and said Johns Creek residents have raised issues regarding paying additional fees to use parks outside of the City, no equity in this situation; Mayor Bodker commented that prior to the city's incorporation and his election there was discussion regarding Ocee Park, and it was intended to allay concerns regarding park use during drawing of boundary lines. Council Member McCabe noted this proposed policy would not go into effect until June and motioned to table the item until a May meeting to allow the cities to discuss alternatives; the motion died for lack of second. In further discussion, Council Member Miller referenced the agreement, saying it occurred before election of this council, it has lasted four years and said between now and June there is still an opportunity for continued discussion. Council Members Johnson and Figueroa concurred with Council Member Miller and reiterated this Council has a responsibility to address concerns of Johns Creek residents, there needs to be a balance to the citizens who incur additional fees when they use parks outside of the city, and may not be able to utilize their own park programs. Mayor Bodker commented the city has invested funds in the city parks using tax payer dollars without the benefit of a bond and there may be an opportunity in the future for parks without borders.

Council Member Johnson motioned, seconded by Council Member McCabe to adopt Resolution 2011-02-08 as presented. During discussion Council Member McCabe motioned to add an amendment to this resolution which would allow players currently enrolled in the program to be grandfathered in for registration regardless of priority registration. There was discussion of the intent of this amendment. Council Member Richardson seconded this amendment. Clarification was made this would be for all seasons of registration. Assistant City Attorney Hastey clarified the wording in the NRF policy, Section 1 "as well as individuals that participated in the program the prior year." Council Member McCabe's amendment passed unanimously. Council Member Richardson asked about Autrey Mill participants. Attorney Hastey addressed her concern by suggesting the following addition to the NRF policy, Section 1: "programs/activities performed at Autrey Mill Nature Preserve shall be excluded from advance registration". Council Member Richardson motioned to amend the resolution to include the Councilor's wording; Council Member Figueroa seconded her amendment motion. The being no discussion, this second amendment passed unanimously.

Mayor Bodker called the question on the main motion as amended; there was further discussion, with Council Members commenting there should be continued discussion with neighboring cities on cross boundary usage of parks. There being no further discussion the motioned passed 6-1. Voting in favor of the motion were Council Members Miller, Johnson, McCabe, Richardson, Figueroa and Stewart, opposing this motion was Mayor Bodker. (**RESOLUTION 2011-02-08**)

**FACILITY RENTAL FEES:** Recreation Manager Franz summarized the discussion from January 31 Work Session, outlining facility rental fees. Council Member McCabe motioned,

seconded by Council Member Stewart to approve Resolution 2011-02-09 to adopt Park Facility Rental Fees as presented. There being no discussion, the motion passed unanimously. **(RESOLUTION 2011-02-09)**

**CAPITAL IMPROVEMENT FUND TRANSFER FOR SHAKERAG PARK:** As this item was previously discussed, Council had no additional questions for Director Vavra. Council Member McCabe motioned, seconded by Council Member Figueroa to approve Resolution 2011-02-10, authorizing the Capital Improvement Fund Transfer from the Contingency Account to the Shakerag Project Account in the Amount of Three Hundred Ninety Five Thousand and Five Hundred Dollars (\$395,500). There being no discussion, the motion passed unanimously. **(RESOLUTION 2011-02-10)**

**CHARTER REVISIONS:** City Attorney Riley reviewed Resolution 2011-02-11 requesting authorization to request amendments to the City Charter during the 2011 Legislative Session. He reviewed the revisions pertaining to appointments of City Manager and City Attorney, referendum on how the millage rate may be changed, changes to the budget approval time line and resolution of boundary conflicts. Mayor asked for clarification on bond wording and charter commission

Council Member Richardson motioned, seconded by Council Member McCabe to approve Resolution 2011-02-11 striking Section 3. During discussion, Council Member Miller voiced concern there is a community misperception that changes to the millage rate referendum will lead to increased taxes, this is not the case, explaining the current language denies a choice to the citizens who exercise their right to vote, as current language calls for 50% of *eligible* voters, many of whom *do not* actually vote. Taxpayers should have a choice to raise the millage rate or vote for a bond referendum. Council Member Stewart and Mayor Bodker said no changes should be made without first convening and hearing recommendations from the Charter Commission. There was further discussion regarding the timing and appointment of this Commission which may delay the possibility of a bond referendum; Mayor Bodker commented a pseudo-Charter commission could be appointed, in theory to review the changes with the official appointments made in in December. Council Member McCabe explained a delay would allow time for Citizens to become more informed on the bond referendum/millage rate issue. Council Member Johnson said the changes should be all or nothing and voiced concern on the legislative timeframe.

Council Member Miller made an amendment to the original motion, to include in Section 3.23a similar language with regard to appointment of City Manager and City Attorney, be *subject to ratification by city council*, seconded by Council Member Johnson. The amended motion passed 5 to 2 with Council Members Miller, Johnson, McCabe, Richardson and Figueroa in favor and Council Member Stewart and Mayor Bodker opposing the amendment.

Council Member Richardson addressed her concern regarding the budget time-line recommendations, saying the proposed 15 days for staff to present budget to Council does not afford sufficient time for review. City Manager Kachmar and Finance Director Vavra weighed in on the timeline, saying it is based on past history of when budget digest is received from Fulton County.

Mayor Bodker called the question on the main motion, as amended. The Mayor asked for a show of hands. The motion failed 3 to 4 with voting in favor Council Members, Richardson, Figueroa, and McCabe; and opposing the motion was Mayor Bodker, Council Members, Miller, Stewart and Johnson.

**OTHER BUSINESS:** None

**PUBLIC COMMENT:** Wayne Henderson thanked Council for supporting the amendment to non-resident fee policy exempting current program participants from priority registration provision and commented the \$4M spent on the parks is not evident in Ocee; David Kornbluh commended the Council on Charter changes discussion and said the amendment to the park non-resident policy could have unintended long term consequences. Mr. Aiken thanked Council for the amendment to the parks policy and said he would like to see the cities work together on the parks issue and suggested police officers should be cross-sworn to police the boundaries; Mark Endres commended Council on their parks and Charter discussion, he was pleased the Charter changes were deferred suggesting changes should be recommended by the Charter Commission, and how the commission should be appointed, adding any increase in millage rate will be a financial burden.

**MAYOR'S COMMENT:** The Mayor thanked everyone for attending the meeting and commented if there was a Milton County, the parks would be County parks and this may afford more uniform uses, saying this could be a goal of the future; and said he would like to continue working together with Alpharetta on this matter. On the Charter changes, the Mayor suggested drafting rules for convening the Charter Commission and said he was not in support of raising the millage rate but the citizens should have the choice on a bond referendum.

**EXECUTIVE SESSION:** No Executive Session.

There being no further business, Council Member Johnson made a motion to adjourn the meeting, Council Member Miller seconded this motion. The motion carried unanimously and the meeting was adjourned.

Approved:

Attest:

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Michael E. Bodker, Mayor

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Joan C. Jones, City Clerk